

Assembly Concurrent Resolution No. 101

RESOLUTION CHAPTER 154

Assembly Concurrent Resolution No. 101—Relative to pawnbrokers and secondhand dealers.

[Filed with Secretary of State September 9, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 101, Jones-Sawyer. Pawnbrokers and secondhand dealers: Internet transactions.

This measure would request the Department of Justice to convene meetings in 2014 with representatives from law enforcement, prosecutors, the secondhand dealer and pawnbroker industry, and interested members of the public to determine the changes to existing law that would (1) allow California pawnbrokers and secondhand dealers to fairly compete with out-of-state internet pawnbrokers, (2) keep available to law enforcement merchandise pawned over the Internet that would otherwise go out-of-state and not be reported or held for inspection, and (3) protect California consumers transacting pawn loans over the Internet from higher interest rates and fees than those permitted in California.

WHEREAS, In the past decade, a new business model has emerged in other states called "Internet pawn." Operators in other less regulated states are aggressively and openly operating in California over the Internet, but are not in compliance with the laws governing California pawnbrokers and secondhand dealers; and

WHEREAS, Existing law requires that California pawnbrokers and secondhand dealers report transactions involving tangible personal property using a statewide, uniform electronic reporting system developed by the Department of Justice; and

WHEREAS, Although pawnbrokers and secondhand dealers are required to make these electronic reports, existing law poses several barriers to electronic pawn loans in California; and

WHEREAS, Existing law requires the report made by a pawnbroker or secondhand dealer to include a legible fingerprint taken from the intended seller or pledger. Existing law further requires a pawnbroker or secondhand dealer to retain the reported tangible personal property for 30 days for possible inspection by law enforcement. Out-of-state pawnbrokers are not required to collect a fingerprint, nor are they subject to a 30-day hold of the property; and

WHEREAS, As a result, a significant amount of reportable merchandise pawned over the Internet that would otherwise be reported to the Department of Justice goes unreported and is not held for law enforcement; and

WHEREAS, This puts California pawnbrokers and secondhand dealers at a competitive disadvantage. In addition, merchandise pawned over the Internet escapes detection by law enforcement and is physically absent from the state as soon as the transaction is completed; and

WHEREAS, California has been a leader in consumer protection for decades; and

WHEREAS, California pawnbrokers provide loans at the lowest interest rates in the United States. California law caps interest rates and fees applicable to these transactions at very low levels. In other states, the interest rates are either capped at much higher levels or are completely unregulated; and

WHEREAS, There are impediments to a licensed pawnbroker or secondhand dealer in California transacting business solely on the Internet. Unlike any other lending model in California, the physical presence of the borrower is required in order to obtain the legally required fingerprint; and

WHEREAS, The convenience of transacting a pawn loan over the Internet from one's home is proving to be a powerful lure to Californians who would ordinarily transact that loan at a physical pawn shop. As the world becomes more dependent on the Internet, secondhand dealers and pawnbrokers in California will lose a greater market share to out-of-state Internet pawn; Californians who choose that form of pawn will also be subject to higher interest rates and fees. In addition, law enforcement will lose a greater percentage of tangible personal property reports and will lose the ability to inspect and seize property needed for criminal investigation and prosecution; and

WHEREAS, Good public policy demands that the Legislature address this inequity that is so harmful to California business, California consumers, and law enforcement; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Department of Justice to convene meetings in 2014 with representatives from law enforcement, prosecutors, the secondhand dealer and pawnbroker industry, and interested members of the public to determine the changes to existing law that would (1) allow California pawnbrokers and secondhand dealers to fairly compete with out-of-state Internet pawnbrokers, (2) keep available to law enforcement merchandise pawned over the Internet that would otherwise go out-of-state and not be reported or held, and (3) protect California consumers transacting pawn loans over the Internet from higher interest rates and fees than those permitted in California; and be it further

Resolved, The Department of Justice is requested to report its findings and recommendations for statutory change to the Legislature by January 1, 2015; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Justice and to the author for appropriate distribution.

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